



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

James J. DeCarlo
Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, NY 10038

COPY MAILED

NOV 22 2002

OFFICE OF PETITIONS

In re Application of :
James McFaddin et al. :
Application No. 10/077,282 : **DECISION REFUSING STATUS**
Filed: February 14, 2002 : **UNDER 37 CFR 1.47(a)**
Attorney Docket No. 694231/0011 JD/JFD :

This is in response to the petition filed October 11, 2002 under 37 CFR 1.47(a) and request for a five month extension of time, in response to the Notice to File Missing Parts mailed March 13, 2002.

The petition under 37 CFR 1.47 (a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on February 14, 2002 as a continuation of parent Application No. 09/859,562, without an executed oath or declaration. Accordingly, on March 13, 2002, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and surcharge for its late filing. In reply, the instant petition, petition fee and extension request were filed. Additionally, a declaration naming James McFaddin, Justin Madison and Michael D. Bigby as joint inventors was provided. The declaration was executed by joint inventors Madison and Bigby on behalf of themselves and on behalf of joint inventor James McFaddin.

Petitioners provide, *inter alia*, copies of E-mail correspondences between petitioners and joint inventor McFaddin wherein joint inventor McFaddin explicitly refuses to sign the declaration in Application No. 09/859,562.

(5) a statement of the last known address of the non-signing inventor.

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned
Petitions Attorney at (703) 305-4497.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is fluid and stylized, with the first name "Patricia" and last name "Faison-Ball" clearly legible.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy